
Appeal Decision

Site visit made on 8 October 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/A2280/W/23/3332380

412 Maidstone Road, Rainham, Gillingham, Medway ME8 0JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr S Hasemzadeh against the decision of Medway Council.
 - The application Ref is MC/23/1437.
 - The development proposed is construction of an outbuilding for a dental practice at the rear garden of 412 Maidstone Road.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the description given on the application form. The Council's description includes additional details of the proposed fencing, landscaping and parking arrangements shown on the plans, which I have taken into account.

Main Issues

3. The main issues are:
 - the effect on living conditions for occupiers of 410 Maidstone Road, with particular regard to noise and disturbance, and
 - the effect of the proposed parking arrangements on highway safety and living conditions for residents of the surrounding area.

Reasons

Living Conditions

4. The appeal site contains a bungalow set back from the road with a grassed area and private driveway in front. The neighbouring dwellings to either side are set further forward. Consequently, the flank wall of 410 Maidstone Road adjoins the front garden, and there are two side-facing windows facing into the appeal site. The boundary is marked by a close boarded fence, which is around 1m high at the front and taller at the rear.
5. While Policy CF2 of the Medway Local Plan 2003 (MLP) is supportive of new community facilities, such support is conditional on the development having no detrimental impact on residential amenity. Policy BNE2 of the MLP also requires that new development protects the amenities of neighbouring residents, including from the effect of noise and increased activity.

6. The proposed building would be sited deep within the rear garden. Its use as a dental practice would introduce frequent comings and goings by members of the public attending appointments. It would also introduce activity at the beginning and end of the working day, as staff arrive and depart. This would intrude on the availability of private, quiet outdoor space, where neighbouring occupiers could reasonably expect not to experience this level of disturbance.
7. The alignment of the access path would focus activity along the boundary with 410 Maidstone Road. Those arriving and departing would pass directly in front of the side-facing windows, as well as entering areas very close to the adjacent back garden and visible from rear-facing windows. Therefore, the additional disturbance would not be limited to the site frontage, where there is a higher level of background noise, but would affect all parts of the neighbouring dwelling and its garden. While the bin store could be moved away from the neighbouring windows, the parking bays and access path would still focus activity within the area along the boundary, to an intrusive degree.
8. It is not uncommon for dental practices to be within residential areas, and there is a similar layout at the appellant's current premises nearby. However, although a lack of formal environmental complaints is described, that does not reliably confirm whether or not neighbouring occupiers are disturbed by comings and goings at that site. Furthermore, the marked pedestrian access into the existing dental practice adjoins a neighbouring driveway and is not so close to any side-facing windows. Therefore, the layout differs from the current proposal and does not justify a similar arrangement on the appeal site.
9. Noise emissions from internal activity or external mechanical ventilation could potentially be mitigated through sound insulation and noise monitoring, although no technical information has been provided to confirm that to be the case. In any case, such measures would not mitigate the noise and disturbance from activity outdoors. While a limit on opening hours would provide respite in the evenings and much of the weekend, the level of activity during the working day would nevertheless be unacceptably intrusive.
10. For the above reasons, I conclude that there would be an unacceptably harmful effect on living conditions for occupiers of 410 Maidstone Road, with particular regard to noise and disturbance. The proposal would therefore conflict with relevant requirements in Policies CF2 and BNE2 of the MLP, as summarised above. Policy BNE1 is of more limited relevance, since it does not include specific requirements relating to the effect on neighbouring amenity. Nevertheless, this aspect of the proposed development would conflict with the development plan when considered as a whole.

Parking and Highway Safety

11. The appellant suggests that a maximum of six parking spaces are required, apparently by comparison with the available parking at the existing practice. However, Policy T13 of the MLP requires that parking provision is made in accordance with adopted standards. Both parties have referred to the same current Medway Council parking standards, which include a maximum requirement for four parking spaces per consulting/treatment room, plus one space per member of staff. Therefore, based on the proposed internal layout and intended six members of staff, up to 14 spaces are required. If one of the dentists lives on site, no additional parking may be required for the bungalow. However, there is no mechanism by which this can be guaranteed.

12. Five parking spaces are shown on the proposed plan and there appears to be space to introduce a sixth on a similar alignment. A further increase to eight spaces would limit the space for turning, so some vehicles could not enter and exit in forward gear. There would therefore be a significant discrepancy between the proposed parking and the parking standard. Nevertheless, since the Council's parking standards are expressed as maxima, the appropriate level of parking requires consideration in relation to site-specific factors, including the availability of alternative modes of transport and the extent to which additional on-street parking would be harmful.
13. There is a bus route along Maidstone Road, and the site is readily accessible on foot or by cycle from the surrounding residential area. However, there is little to prevent people travelling a greater distance to access dental services and it cannot be guaranteed that they would make use of these alternative modes of transport. While current staff are described as living locally, there is little certainty that they would walk or cycle to work, or that future members of staff would be in a position to do so, even if a travel plan is required.
14. It is likely that more than one patient per consulting room would be present at any particular time, given that people may arrive well in advance of their slot and appointments can over-run. Therefore, the Council's standard of up to four spaces per consulting room would realistically reflect the potential pattern of patient arrivals and departures.
15. Although the appellant's Parking Survey¹ indicates that there was significant parking capacity within walking distance on the day of the survey, this is based on application of an assumed standard length of parking bay within the survey area and does not include enough detail for the number of claimed parking spaces to be verified. Nor is it clear that adequate account has been taken of constraints such as parking restrictions, junctions and entrances.
16. There are double yellow lines restricting parking outside the site. However, along much of Maidstone Road, parking is unrestricted. At the time of my site visit, several cars were parked partly obstructing the pavement and photographs in the Parking Survey reveal similar behaviour at the time of the survey. Representations from interested parties also refer to existing issues with inconsiderate parking, including on the double yellow lines, which can obstruct visibility. While such parking may be contrary to parking restrictions, it is indicative of pressure on the existing on-street parking capacity and is a pattern of behaviour which could be exacerbated by the shortfall in parking within the appeal site.
17. The Council and interested parties report that on-street parking in Woodpecker Glade is often fully occupied and that was the case at the time of my site visit. While patients may opt to park in the paid-for car park at the Queens Head, that cannot be relied upon.
18. At the time of my site visit, there was a steady stream of traffic along Maidstone Road. This increased considerably for a short period coinciding with the end of the school day, when a queue of traffic built up from the nearby roundabout. While I appreciate that this is only a snapshot in time, it indicates that additional on-street parking in the vicinity of the site could be disruptive to the free flow of traffic.

¹ Lyondale Parking Survey dated June 2023

19. The appellant's existing dental practice includes a similar amount of parking within the front garden. However, at the time of my site visit, those spaces were fully occupied and, despite the proximity of marked parking bays opposite, there was a car parked on the pavement in front of the site. While this is also a snapshot in time, it tends to confirm that similar issues could arise at the appeal site.
20. While the intention of maximum parking standards is to encourage use of alternative modes, a balance is required between influencing behaviour and making adequate provision to safeguard safe conditions on the highway. In this case, the shortfall against the maximum standard would be considerable. There is also evidence that spillover parking could add to existing issues with inconsiderate and obstructive parking, increasing the risk of unsafe conditions arising and inconvenience for those living nearby. Given the scale of the shortfall, and the likely consequences of increased demand, the effect on highway safety and living conditions for nearby residents could not be adequately mitigated by agreement of a parking management plan.
21. For the above reasons, I conclude that the proposed parking arrangements would have an unacceptably harmful effect on highway safety and living conditions for residents of the surrounding area. It would conflict with Policies BNE2, T1 and T13 of the MLP which require, amongst other things, that development includes parking provision in accordance with adopted standards, does not significantly add to the risk of road traffic accidents, and is not harmful to the amenities of nearby properties. While the site is accessible by public transport, cycling and walking, as required by Policy CF2, the proposal would conflict with the requirement in the same policy that the size and scale of the development is appropriate to the site, on the basis that there is inadequate space to make suitable parking provision.

Other Matters

22. The proposal would enable retention and relocation of an existing dental practice and additional services are proposed for obese patients. As such, the continued availability and enhancement of local dental services is a benefit weighing in favour of the proposal.
23. However, there is no clear evidence that the appeal site is the only available option for relocation of the practice, or that there is a lack of suitable alternative premises in the same local area. Nor has any objective evidence been presented of a specific deficiency in local primary care services. Indeed, there is another dental practice very close by, which appears well placed to serve a similar geographical area. While there is no evidence that this provides NHS services, nor is there any mechanism available to me by which provision of NHS dental services at the appeal site could be secured. Therefore, this is a factor to which I have given limited weight.
24. Although the proposed building may be more accessible for elderly and disabled patients, the overall level of accessibility would be compromised by the limited parking and long, narrow access path. No dedicated parking for disabled people shown on the plans. Therefore, while I have had regard to the aims of the Public Sector Equality Duty, as set out in s149 of the Equality Act 2010, based on the evidence before me, I am not persuaded that the proposal would materially advance equality for opportunity for people with protected characteristics.

25. More efficient use would be made of a brownfield site, introducing a mixed use so as to retain the existing dwelling on the site. However, the support in the National Planning Policy Framework (the Framework) for more efficient use of such land is not at the expense of ensuring that development maintains a high standard of amenity for existing occupiers and safe conditions on the highway.
26. The proposed building would be inconspicuous, and the Council did not allege any harm to the character and appearance of the area. There are no heritage constraints, the design takes account of fire safety and includes measures to mitigate the effects of climate change. However, compliance with these other relevant policy requirements is a factor to which I have given limited positive weight.
27. While the MLP is of some age, its policies requiring that development avoids harm to highway safety and the living conditions of nearby residents are consistent with similar requirements in the Framework. I have accordingly given the harm arising from the proposal, along with the consequent conflict with the development plan, significant weight. As such, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, taking account of the factors outlined above.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

Jane Smith

INSPECTOR